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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,576	03/28/2001	Earl F. Gill III	P-4760-001	3484
24112	7590	01/25/2005	EXAMINER	
COATS & BENNETT, PLLC			LAYE, JADE O	
P O BOX 5			ART UNIT	
RALEIGH, NC 27602			PAPER NUMBER	

2614

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/819,576

**Applicant(s)**

GILL, EARL F.

**Examiner**

Jade O. Laye

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2001.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-50 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 28 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/28/01.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 3/28/01 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-6, 8-14, 17-20, 23, 25-33, 35-39, 42-44 and 47-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Budow et al. (US Pat. No. 5,661,517).

As to claim 1, Budow discloses a system comprising a card reading module (i.e., payment acceptor) (Col. 4, Ln. 20-52 & Fig. 4) and a content provider coupled to said card reading module via a communication link. (Col. 5, Ln. 1-4). Although Budow only teaches the system is coupled to a head end, it is inherent the head end itself is the content provider or the head end is coupled to a content provider. After receiving payment, the system provides broadcast

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services to a user without the requirement of a preexisting account between the content provider and the system. (Col. 5, Ln. 1-13 ; Col. 7, Ln. 54-62 ; Col. 12 Ln. 33-42). Therefore, Budow anticipates each and every limitation of claim 1.

Method claim 25 corresponds to the apparatus claim 1. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 2, Budow teaches his system can be used in conjunction with a wireless communication link. (Col. 8, Ln. 63-66). Therefore, Budow anticipates each and every limitation of claim 2.

Method claim 28 corresponds to apparatus claim 2. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 3, Budow teaches his system can be used in conjunction with a satellite communication link. (Col. 8, Ln. 63-66). Therefore, Budow anticipates each and every limitation of claim 3.

Method claim 29 corresponds to apparatus claim 3. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 4, Budow teaches his system can be used in conjunction with a wirebased communication link. (Col. 4, Ln. 53-58). Therefore, Budow anticipates each and every limitation of claim 4.

Method claim 30 corresponds to apparatus claim 4. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 5, Budow teaches his system can be used in conjunction with a cable communication link. (Col. 8, Ln. 63-66). Therefore, Budow anticipates each and every limitation of claim 5.

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Method claim 31 corresponds to apparatus claim 5. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 6, Budow teaches the room terminal (i.e., reception module) can possess an identifying address. (Col. 1, Ln. 60-67 thru Col. 2, Ln. 1-17). (In order to determine which patients, rooms, etc. purchased programs, it is inherent the room terminal have some form of identifying address.) Therefore, Budow anticipates each and every limitation of claim 6.

Method claim 32 corresponds to apparatus claim 6. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 8, Budow teaches the room terminal/card reader can be identified via a telephone number. (Col. 2, Ln. 58-67 thru Col. 3, Ln. 1-8). Therefore, Budow anticipates each and every limitation of claim 8.

Method claim 33 corresponds to apparatus claim 8. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 9, Budow teaches the system's card reader comprises a magnetic card reader. (Col. 4, Ln. 20-52 ; Col. 6, Ln. 23-27). Therefore, Budow anticipates each and every limitation of claim 9.

Method claim 35 corresponds to apparatus claim 9. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 10, Budow teaches the card reader can comprise a keypad adapted to receive/input various types of account information. (Col. 6, Ln. 33-44 ; Col. 8, Ln. 52-55 ; Col. 14, Ln. 47-52). Therefore, Budow anticipates each and every limitation of claim 10.

Method claim 36 corresponds to apparatus claim 10. Accordingly, it is analyzed and rejected as previously discussed.

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As to claim 11, Budow teaches his system can be positioned in rental property. (Col. 1, Ln. 15-18). Therefore, Budow anticipates each and every limitation of claim 11.

Method claim 26 corresponds to apparatus claim 11. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 12, Budow teaches his system can be positioned in a condominium. (Col. 1, Ln. 15-18). Therefore, Budow anticipates each and every limitation of claim 12.

Method claim 27 corresponds to apparatus claim 12. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 13, Budow teaches his system delivers television content to the room terminals. (Col. 1, Ln. 15-33 ; Col. 5, Ln. 1-13). Therefore, Budow anticipates each and every limitation of claim 13.

Method claim 38 corresponds to apparatus claim 13. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 14, Budow teaches his system delivers video content to the room terminals. (Col. 1, Ln. 15-33 ; Col. 5, Ln. 1-13). Therefore, Budow anticipates each and every limitation of claim 13.

Method claim 39 corresponds to apparatus claim 14. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 17, Budow teaches his reception module (i.e., card reader) can be used in conjunction with a room terminal (i.e., set top box). (Col. 5, Ln. 57-59). Therefore, Budow anticipates each and every limitation of claim 17.

Method claim 42 corresponds to apparatus claim 17. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 18, Budow teaches his system's reception module (i.e., card reader) can be integrated into a television. (Col. 5, Ln. 57-59). Therefore, Budow anticipates each and every limitation of claim 18.

As to claim 19, Budow teaches his system is capable of providing predetermined content packages (i.e., pay-per view events, video-on-demand, etc.), wherein a user may select from a variety of offered programs. (Col. 1, Ln. 15-33). Therefore, Budow anticipates each and every limitation of claim 19.

Method claim 43 corresponds to the apparatus claim 19. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 20, Budow discloses a system capable of providing time limited predetermined content packages. (Col. 1, Ln. 15-33). Since pay-per-view programs are time limited, it is inherent that Budow's system contains this limitation. Accordingly, Budow anticipates each and every limitation of claim 20.

Method claim 44 corresponds to apparatus claim 20. Therefore, it is analyzed and rejected as previously discussed.

As to claim 23, Budow's room terminal further comprises local memory (i.e., memory located on client side). (Figure 4). Therefore, Budow anticipates each and every limitation of claim 23.

As to claim 37, Budow teaches his system can be used in conjunction with a remote control device, which comprises a card reader. (Col. 5, Ln. 57-59). Therefore, Budow anticipates each and every element of claim 37.

As to claims 47, 48, and 49, Budow discloses his system can be used in motel, hotels, and condominiums (i.e., rental property) (Col. 1, Ln. 15-18). In order to get the systems into rental

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properties, it is inherent that they be promoted/advertised to the owners and/or managers.

Accordingly, Budow anticipates each and every limitation of claims 47, 48, and 49.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 7, 15, 16, 34, 40, 41, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budow et al in view of Krishnan et al. (US Pat. Pub. No. 2002/0087968).

Claim 7 recites the content delivery system of claim 6, wherein said identifying address comprises an IP address. As discussed above, Budow contains all limitations of claim 1, but fails to specifically disclose whether the system's address can be an IP address. However, within the same field of endeavor, Krishnan discloses a similar system, wherein the set-top box can comprise an IP address. (Page 2, Par [0018]). Therefore, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of Budow



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and Krishnan in order to provide an interactive content delivery system in which the user would also be provided with an IP address for addressability by the head end and users of the Internet.

Method claims 34 and 50 correspond to apparatus claim 7. Accordingly, each is analyzed and rejected as previously discussed.

Claim 15 recites the content delivery system of claim 1, wherein said content provider delivers internet access to said reception module. As discussed above, Budow contains all limitations of claim 1, but fails to disclose a system capable of providing internet access. However, within the same field of endeavor, Krishnan discloses a similar system capable of providing Internet access. (Fig. 1). Therefore, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of Budow and Krishnan in order to provide a content delivery system capable of also providing Internet access.

Method claim 40 corresponds to apparatus claim 15. Accordingly, it is analyzed and rejected as previously discussed.

Claim 16 recites the content delivery system of claim 1, wherein said content provider delivers video games to said reception module. As discussed above, Budow contains all limitations of claim 1, and further teaches his system contains a joystick for playing games, but fails to specifically disclose whether games can be provided by the content provider. (Col. 21, Ln. 41-45). However, within the same field of endeavor, Krishnan discloses a similar system, wherein the media server (i.e., content provider) provides games to a user. (Page 2, Par. [0018]). Therefore, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of Budow and Krishnan in order to provide a content delivery system capable of supplying games to a user.

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Method claim 41 corresponds to apparatus claim 16. Accordingly, each is analyzed and rejected as previously discussed.

3. Claims 21, 22, 24, 45, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budow et al in view of Hendricks et al. (US Pat. No. 5,559,549).

Claim 21 recites the content delivery system of claim 19, wherein said plurality of predetermined content packages comprise topic limited packages. As discussed above, Budow contains all limitations of claim 19, but fails to specifically disclose the system provides topic limited packages. However, within the same field of endeavor, Hendricks discloses a similar system, which is capable of providing content specific programming packages, such as sports, news, etc. (Col. 6, Ln. 61-67 thru Col. 7, Ln. 1-21 ; Col. 12, Ln. 11-16). Therefore, it would have been obvious to one ordinarily skilled in this art at the time of applicant's invention to combine the systems of Budow and Hendricks in order to provide a content delivery system capable of delivering topic limited packages.

Method claim 45 corresponds to apparatus claim 21. Accordingly, it is analyzed and rejected as previously discussed.

Claim 22 recites the content delivery system of claim 21, wherein said topic limited packages comprise packages selected from the group consisting of: sports packages, news packages, movie packages, and broadcast packages. As discussed above, Budow discloses all limitations of claim 21, and further discloses the system is capable of providing broadcast and movie packages. (Col. 1, Ln. 15-33). But, Budow fails to disclose the remaining limitations recited in claim 22. However, within the same field of endeavor, Hendricks discloses his system is capable of providing sports and news packages. (Col. 6, Ln. 61-67 thru Col. 7, Ln. 1-21 ; Col. 12, Ln. 11-16). Accordingly, it would have been obvious to one of ordinary skill in this art at the

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time of applicant's invention to combine the systems of Budow and Hendricks in order to provide a system capable of transmitting sport, news, movie, and broadcast packages.

Claim 24 recites the content delivery system of claim 23, wherein said local memory comprises commercials relating to local business establishments. As discussed above, Budow discloses all limitations of claim 23, but fails to disclose the capability of broadcasting local programming. However, within the same field of endeavor, Hendricks discloses a similar system capable of broadcasting local content. (Col. 7, Ln. 54-64). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of Budow and Hendricks in order to provide a system capable of broadcasting local content.

Method claim 46 corresponds to apparatus claim 24. Accordingly, it is analyzed and rejected as previously discussed.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Mountjoy et al (US Pat. No. 3,021,383) disclose a coin operated television distribution network.
- b. Rubinstein et al (US Pat. No. 3,192,213) disclose a pay-television receiver having program selection according to the amount of pre-payment.
- c. Slater (US Pat. No. 5,018,021) discloses an individualized video center.
- d. Biggs (US Pat. No. 5,323,448) discloses a system for accessing amenities through a public telephone network.

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- e. Pugh et al (US Pat. Pub. No. 2002/0166126) disclose an interactive intelligent video entertainment system.
- f. Bailey (US Pat. Pub. No. 2004/0015982) discloses an electronic user pays product and/or service controller.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (703)308-6107. The examiner can normally be reached on Mon. 7:30am-3pm, Tues.-Fri. 7:30-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (703)305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner's Initial's JL  
January 10, 2005.

  
**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**